IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 563/2005
(Rama Kishan Vs. Anand Raj)

Date of Order : 15/12/2006

PRESENT
HON'BLE MR. JUSTICE H.R.PANWAR

Mr. J.K.Mishra for the petitioner.
Mr. Sandeep Mehta for the non-petitioner.

BY THE COURT:-

This criminal misc. petition under Section 482 Cr.P.C. is directed against the order dated 07.04.2005 passed by Judicial Magistrate, Ist Class, Pali Marwar (for short 'the trial court' hereinafter), in Criminal Case No.153/03 whereby the trial court allowed the application filed by non-petitioner complainant under Section 311 Cr.P.C. and summoned the witnesses mentioned therein at serial No.1 to 3. The witnesses in the list are; complainant himself, Post Master and the Postman. The Post Master and the Postman are the witnesses to the service of registered notice and acknowledgment due.

I have heard learned counsel for the parties. Carefully gone through the order impugned.

It appears that in the complaint, the father's name of the present petitioner has been shown as Deburam, whereas the

petitioner's case is that his father's name is Dayaram which is evident from the cause title of the memo of petition. The other point agitated by the accused-petitioner before the trial court is that the registered notice was received by the sister-in-law by affixing her thumb impression on acknowledgment due and thus it has not been served personally on the accused petitioner.

The non-petitioner filed an application under Section 311 Cr.P.C. before the trial court requesting the trial court to summon the Post Master and the Postman who served the registered notice as also with regard to the discrepancy in the father's name of the petitioner because according to the complainant, the petitioner himself in certain proceeding mentioned his father's name as Deburam.

By a well reasoned and detailed order, the trial court allowed the application filed by the non-petitioner. On a careful perusal of the order impugned, in my view, the trial court was justified in allowing the application filed by the non-petitioner. It cannot be said that the order impugned would result in serious miscarriage of justice or abuse of process of the Court.

The petition has no force and it is therefore, dismissed. Stay petition also stands dismissed.

(H.R.PANWAR),J.

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